

CIV-140909-CIV-DS1413481-CASEEN-081602



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Complaint and Party information entered



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1 James L. Meier (SBN 167483)
2 **LAW OFFICES OF JAMES L. MEIER**
3 2023 Greenleaf Street
4 Santa Ana, California 92706

5 Telephone: 800-655-9001
6 Facsimile: 714-242-7559
7 Email: jim@jmeierlawoffice.com

8 Attorney for Plaintiff
9 LINDA PINA

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 09 2014

BY Jay L. Wade
JILYALI WADE, DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

BY FAX

LINDA PINA,

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS, INC.;
SOUTHERN CALIFORNIA PERMANENTE
MEDICAL GROUP; KAISER FOUNDATION
HEALTH PLAN; MOHAMMAD NAMAZIAN,
D.O.; KRISTEN NGUYEN, M.D.; DARREN
MOORE, P.A.; and DOES 1 through 20 inclusive,

Defendants.

Case No.: CIVDS1413481

COMPLAINT FOR DAMAGES

(Medical Malpractice)

DEMAND FOR JURY TRIAL

\$435.00 # 140909-0134 JW

Plaintiff alleges:

1. The true names, capacities or involvement of defendants DOES 1 through 20 are unknown to plaintiff who sues said defendants as authorized by *Code of Civil Procedure section 474*. Each defendant, whether specifically named or identified as a DOE, owed duties to plaintiff and legally caused the injuries and damages to plaintiff alleged in this complaint.

2. Each of the defendants is a person or entity either subject to the laws of vicarious liability, e.g., agent, employee, partner, etc., or in a contractual relationship, with the other defendants, and was at all times acting within the purpose, authority and scope of such relationship so that each defendant is liable for the actions of each other defendant.

1 3. Plaintiff LINDA PINA is an individual, and at all times a resident of San Bernardino,
2 San Bernardino County, State of California.

3
4 4. At all times mentioned, the Defendants, KAISER FOUNDATION HOSPITALS, INC.;
5 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; KAISER FOUNDATION
6 HEALTH PLAN; MOHAMMAD NAMAZIAN, D.O.; KRISTEN NGUYEN, M.D.; DARREN
7 MOORE, P.A. and each of them, are health care providers including hospitals, health care
8 organizations, physicians, their partners and partnerships, professional corporations, independent
9 practice associations, employed nurses and health care providers, all duly licensed to practice their
10 profession in San Bernardino County, as provided by the laws of the State of California, who were
11 providing medical diagnosis, care and treatment to Linda Pina, and who owed a duty of care to
12 her.

13 5. At all times mentioned, the Defendants, KAISER FOUNDATION HOSPITALS, INC.;
14 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; KAISER FOUNDATION
15 HEALTH PLAN; DOES 1-20, inclusive, and each of them, were and now are corporations,
16 partnerships, sole proprietorships, joint ventures or associations duly organized under and by
17 virtue of the laws of the State of California.

18 6. At all times mentioned, the Defendants, KAISER FOUNDATION HOSPITALS, INC.;
19 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; KAISER FOUNDATION
20 HEALTH PLAN; DOES 1-20, inclusive, and each of them, were and are engaged in the owning,
21 operating, maintaining, managing and engaged in rendering medical, surgical, hospital, diagnostic,
22 nursing and other care to the general public for compensation in San Bernardino County known as
23 KAISER FOUNDATION HOSPITALS, INC.; SOUTHERN CALIFORNIA PERMANENTE
24 MEDICAL GROUP, a general acute care hospital within the meaning of Health and Safety Code
25 section 1250, et seq. or some other business; all of the acts complained of herein by plaintiff
26 against said defendants were done and performed by said defendants by and through their duly
27 authorized agents, joint ventures, and employees, each of whom and all of whom were at all times
28 mentioned herein acting within the course, purpose and scope of their joint venture or employment
and their conduct was ratified by the remaining defendants. Further, these defendants selected and
assigned physicians, medical residents and other health care professionals to care for and treat the

1 plaintiff, and through words or actions held those individuals out as agents or employees, knowing
2 and expecting the plaintiffs to rely upon those actions or words. Those individuals were the
3 ostensible agents of these defendants.

4
5 7. At all times mentioned, the Defendants, KAISER FOUNDATION HOSPITALS, INC.;
6 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; KAISER FOUNDATION
7 HEALTH PLAN; MOHAMMAD NAMAZIAN, D.O.; KRISTEN NGUYEN, M.D.; DARREN
8 MOORE, P.A, and each of them, held themselves out to the general public and to plaintiff as
9 skilled professionals in the science of medicine, surgery, nursing, hospital care, medical attendant
10 and related care; and said defendants held themselves out to the general public and to the plaintiff
11 as possessing that degree of knowledge and skill customarily possessed and exercised by other
12 physicians, surgeons, nurses, and hospital attendants engaged in the same or similar locality as that
13 of defendants, and each of them.

14 8. The true names, identities and capacities of defendants Doe 1-20, inclusive and each
15 Doe in between are unknown to plaintiff at this time, who therefore sue said defendants by such
16 fictitious names. When the true names and capacities are ascertained, plaintiff will amend this
17 complaint to insert said true names, identities and capacities, together with the proper charging
18 allegations. Plaintiff is informed and believe that each of the defendants sued herein as DOE is
19 responsible in some actionable manner for the events and happenings herein alleged and legally
20 causing injury to plaintiff as herein after set forth.

21 9. On June 19, 2013 and thereafter plaintiff was a patient of defendants named in this
22 cause of action, in connection with medical care. Plaintiff was under the sole and exclusive care
23 and control of defendants during all times mentioned herein.

24 10. During said periods of times herein above alleged, defendants named in this cause of
25 action were negligent, careless and unskillful in their management of plaintiff's care, including but
26 not limited to the examinations, surgeries, imaging, diagnosis, care and treatment thereby legally
27 causing injuries and damages to plaintiff.
28

1 11. Defendants, MOHAMMAD NAMAZIAN, D.O.; KRISTEN NGUYEN, M.D.;
2 DARREN MOORE, P.A, and each of them, are individuals, and at all times herein mentioned, on
3 information and belief, residents of San Bernardino, California. Plaintiff is informed and believes
4 that the defendants, MOHAMMAD NAMAZIAN, D.O.; KRISTEN NGUYEN, M.D.; DARREN
5 MOORE, P.A, were licensed to practice medicine in the State of California at all times mentioned
6 within this complaint.

7 12. On or about June 19, 2013, after running on Mt. Rubidoux in Riverside, California,
8 and had stepped on a branch with such great force that it penetrated deeply into the area of her
9 right ankle/heel. She was driven from the scene to Kaiser where the wound was cleaned by the
10 nurse and defendant, Dr. Kristen Nguyen, MD, pulled out the branch that was protruding from
11 her right ankle. She had pain at the puncture site and it was painful to move her foot up or down.
12 Dr. Nguyen concluded that she had suffered "Right distal Achilles with puncture wound and a
13 foreign body (splinter) poking out. Neurovascularly intact. Painful to dorsiflex and plantar flex
14 foot. Mild erythema, swelling, and bleeding at the wound".

15 13. No other treatment was provided including the usage of diagnostic films, CT scans,
16 ultrasound, sonogram, MRI or x-rays to determine if the entire foreign body had been identified
17 and removed. Instead, she was given Tylenol and sent home. Not surprisingly, the next day on
18 June 20, 2013, she awoke in excruciating pain and called immediately called her primary
19 physician and asked if she could prescribe her stronger pain medications. Plaintiff was told to go
20 directly to Kaiser, and she went to defendant's Fontana offices and was seen defendant Darren
21 Moore, P.A, who ordered an X-Ray. The remaining pieces of the branch still in her ankle were
22 not seen by any of your physicians for some inexplicable reason. In fact the only notes of the
23 results of the x-ray was "No acute fracture or dislocation noted". Dr Moore also examined her
24 Achilles and advised her there was no tear, and to go home and take the pain meds that her
25 physician had prescribed and to see her personal physician in a week. She used the pain
26 medication to diminish the severe pain she continued to have in her right ankle over the next week
27 as pieces of the branch remained in her foot despite Kaiser's assurance they were all removed.

28 14. She returned on June 26, 2013 with Dr. Mohammad Namazian, DO, because of
continued pain. A Kaiser representative told her that Dr. Namazian had ordered the sonogram to

1 the "wrong part of the foot" and that they would have to send him a message to try to correct this,
2 and that someone would contact her to schedule the appointment. No one from Kaiser ever did
3 follow up.

4
5 15. Plaintiff returned for her scheduled follow up on July 8, 2013 with Dr. Namazian. She
6 was not improving and still had swelling and significant pain. She was extremely upset and,
7 again, insisted that a sonogram and/or an MRI of her right ankle be taken immediately to rule out
8 remaining fragments. She was examined by Patrick Wider, PA, who finally ordered a sonogram
9 (19 days later). The sonogram revealed the larger retained piece of the branch that had never been
10 identified or removed.

11
12 16. Plaintiff returned on July 18, 2013 because she was still in pain, and wanted the
13 stitches removed. She also complained of atypical chest pressure, chest discomfort and difficulty
14 breathing that was getting worse each day. The physician on duty simply instructed her to go to
15 the emergency room if her breathing did not stabilize and her chest pain did not diminish. She
16 presented to Kaiser's emergency room that same day in Fontana, and she was diagnosed with a
17 pulmonary embolism likely caused by the blood clot in her lower extremity that broke loose and
18 traveled to the lungs. Further, an MRI showed that there were still retained fragments in her foot
19 after two surgeries at defendant's medical offices.

20
21 17. Defendants named in this cause of action failed to use reasonable care in the hiring,
22 screening, retention, managing, assigning and supervising of the physicians, nurses and other
23 personnel that it provided to SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP.
24 Further defendants named in this cause of action failed to use reasonable care in continuing to
25 review, assign, monitor, manage, screen, retain and supervise the physicians, nurses, clerical,
26 administrative and other personnel whom it provided to KAISER FOUNDATION HOSPITALS,
27 INC.; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; KAISER
28 FOUNDATION HEALTH PLAN.

29
30 18. Defendants named in this cause of action and each of them, failed to provide the care
31 and treatment within the standard of care expected of them in the community.

1 19. As a direct, legal and actual result of the conduct of defendants, and each of them,
2 plaintiff's health, strength and activity has been severely injured; and has sustained, and will
3 sustain in the future, severe pain, disfigurement, maiming, suffering, injury to her body, and
4 severe shock and injury to her nervous system and various other injuries to the person. Such
5 injuries and disabilities have caused and will cause plaintiff general and non-economic damages,
6 in a sum within the unlimited jurisdiction of this Superior Court.

7 20. As a direct, legal and actual result of the acts and conduct of defendants, and each of
8 them, and of said injuries, plaintiff was compelled to, did incur and will in the future incur, inter
9 alia, obligations, bills, expenditures and other economic damages for dental and health services of
10 all kinds, including, but not limited to the care, attention and services of dentists, physicians,
11 nurses, therapists, rehabilitation services, attendants, incidental services, prescriptions, prosthetics,
12 health devices, and other services. The exact amount of such obligations, expenditures and
13 economic damages so incurred and to be incurred is not known to plaintiff at this time, and plaintiff
14 will ask leave of court, orally or in writing, to amend this complaint to insert such amount when
15 the same is fully ascertained.

16
17 21. That as a direct and legal result of the conduct of defendants, and each of them, and
18 of said injuries, plaintiff has been and will be damaged by the loss of wages, income, dividends
19 and profits in an amount presently unascertained; plaintiff will ask leave of court, orally or in
20 writing, to amend this complaint to insert said amount when the same has been ascertained.

21
22 22. As a legal and proximate result of the negligence of defendants, plaintiffs have
23 sustained economic and non-economic damages, all of which will be shown, according to proof at
24 trial.

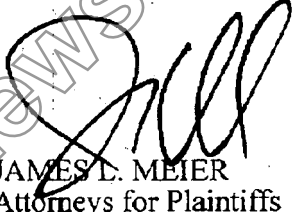
1 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, for the
2 following:

- 3 1. Economic damages according to proof;
- 4 2. Non- economic damages according to proof;
- 5 3. Costs of suit;
- 6 4. Attorney's fees;
- 7 5. Pre judgment interest and post judgment interest according to law; and
- 8 6. Such other and further relief s the court may deem proper.

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11 Dated: September 8, 2014

LAW OFFICES OF JAMES L. MEIER

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14 By:


JAMES L. MEIER
Attorneys for Plaintiffs
LINDA PINA

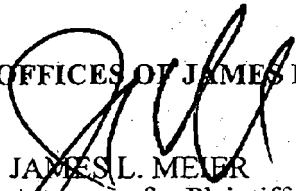
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19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby demands a jury trial.

21
22 DATED: September 8, 2014

LAW OFFICES OF JAMES L. MEIER

23 By:


JAMES L. MEIER
Attorneys for Plaintiffs
LINDA PINA